

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
Norfolk Division



BARBARA ANN SHERRILL,

Plaintiff,

v.

ACTION NO. 2:11cv146

MICHAEL J. ASTRUE, COMMISSIONER,  
Social Security Administration.

Defendant.

**FINAL ORDER**

Plaintiff brought this action under 42 U.S.C. §§ 1383(c)(3) and 405(g) seeking judicial review of the decision of the Commissioner of the Social Security Administration denying plaintiff's claim for disability insurance benefits under Title II and Title XVI of the Social Security Act.

This matter was referred to a United States Magistrate Judge, pursuant to the provisions of 28 U.S.C. § 636(b)(1)(B) and (C) and Rule 72(b) of the Federal Rules of Civil Procedure, as well as Rule 72 of the Rules of the United States District Court for the Eastern District of Virginia, for a report and recommendation. The Report and Recommendation of the Magistrate Judge was filed on November 14, 2011, recommending that the final decision of the Commissioner be vacated and remanded to allow the administrative law judge to reevaluate the weight attributed to the physicians' opinions pursuant to Part IV, Section B of the Magistrate Judge's Report and


Recommendation and to substantiate his analysis of plaintiff's credibility with respect to her migraine headaches. The Report and Recommendation also provided that, if necessary, the Administrative Law Judge should evaluate whether plaintiff's headache pain is a non-exertional limitation requiring testimony from a vocational expert concerning the impact of this condition on available employment.

By copy of the report, each party was advised of the right to file written objections to the findings and recommendations made by the Magistrate Judge. The Court has received no objections to the Magistrate Judge's Report and Recommendation

Following a de novo review of the Magistrate Judge's Report and Recommendation, the Court hereby ADOPTS the findings and recommendations set forth in the report of the United States Magistrate Judge filed on November 14, 2011. The decision of the Commissioner is VACATED and the case is REMANDED to allow the administrative law judge to reevaluate the weight attributed to the physicians' opinions and to substantiate his analysis of plaintiff's credibility with respect to her migraine headaches.

Plaintiff is ADVISED that she may appeal from this Final Order by forwarding a written notice of appeal to the Clerk of the United States District Court, United States Courthouse, 600 Granby Street, Norfolk, Virginia 23510. Said written notice must be received by the Clerk within sixty (60) days from the date of this Final Order.

The Clerk shall forward a copy of this Final Order to counsel of record for the parties.

/s/   
Mark S. Davis  
United States District Judge

Norfolk, Virginia

December 12, 2011